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# ***Public Utilities Commission of the State of California***

## ***Results of Public Agenda 3101***

***Meeting Held on Thursday, November 21, 2002 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Loretta M. Lynch, President**

**Geoffrey F. Brown**

**Henry M. Duque**

**Michael R. Peevey**

**Carl W. Wood**

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings**

**505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> Auditorium (10 a.m.) <b><i>Open to the Public</i></b>
Thursday, December 12, 2002 (San Francisco)	Thursday, December 05, 2002 (San Francisco)
Monday, January 13, 2003 (San Francisco)	Tuesday, December 17, 2002 (San Francisco)
Monday, January 27, 2003 (San Francisco)	Thursday, January 16, 2003 (San Francisco)
	Thursday, January 30, 2003 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor  
(415) 703-2074 E-mail: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)



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## PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
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### Public Comment:

Re 1: Vicky Hoover, Sierra Club, San Francisco

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

- |                            |   |
|----------------------------|---|
| <b>CA-1</b><br><b>1110</b> | <b>Res TL-19015</b><br>Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.<br><b>Outcome Approved</b><br>Yes: (Duque, Lynch, Peevey, Wood)<br>No: (none)<br>Abstain: (none)<br>Absent: (Brown)  |
| <b>CA-2</b><br><b>1113</b> | <b>Res ALJ-176-3101</b><br>Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.<br><b>Outcome Approved</b><br>Yes: (Duque, Lynch, Peevey, Wood)<br>No: (none)<br>Abstain: (none)<br>Absent: (Brown) |

**CA-3  
1157****A02-05-057 - U.S. TelePacific Corp. (TelePacific) and SIPCO Limited (SIPCO).**

This decision approves TelePacific and SIPCO's request for approval of the indirect transfer of control of TelePacific. This proceeding is closed.

(Comr Peevey - ALJ Grau)

(Agenda 3098, Item CA-17 10/24/2002 (Lynch); Agenda 3099, Item CA-10 11/7/2002 (Peevey))

**Outcome Signed**

[D02-11-051](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-4  
1199****R00-05-001 - Order Instituting Rulemaking into implementation of Senate Bill 669, regarding The Deaf and Disabled Telecommunications Program.**

This decision grants in part and denies in part the Deaf and Disabled Telecommunications Administrative Committee's (DDTPAC) Petition for Modification of D01-07-012 to allow per diem compensation to be paid to members of specific DDTPAC subcommittees. This proceeding is closed.

(Comr Duque - ALJ Thomas)

(Agenda 3099, Item CA-18 11/7/2002 (Staff))

**Outcome Held (12/5/02, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-6 (Rev.)  
1225****Res W-4360 - Del Oro Water Company, Ferndale District (FD).**

This resolution authorizes FD an increase in rates producing an increase in annual revenues of \$1,095 or \$0.28% for test year 2002.

(Agenda 3098, Item CA-34 10/24/2002 (Staff); Agenda 3099, Item CA-20 11/7/2002 (Staff))

11/13/2002 - This revision was not shown on the Agenda mailed to the public.

**Outcome Approved**

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-7  
1226****C00-05-039 - Boston Properties, Inc. vs. Pacific Gas and Electric Company (PG&E).**

This decision grants PG&E's motion to dismiss the complaint that alleged PG&E had failed to properly implement Public Utility Code Section 368(a) for its real-time pricing tariff. Held, no violation of statute. This proceeding is closed.

(Comr Brown - ALJ Kotz)

**Outcome Signed**

[D02-11-052](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-8  
1234****A01-02-024 - AT&T Communications of California, Inc., and WorldCom, Inc. (WorldCom).**

For the Commission to reexamine the recurring costs and prices of unbundled switching in its first annual review of unbundled network element costs pursuant to ordering paragraph 11 of D99-11-050. A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This decision finds that Pacific Bell Telephone Co. (Pacific) and WorldCom violated Commission Rule 7.c prohibiting ex parte communications during the "quiet time" surrounding a ratesetting deliberative meeting. The Commission assesses a fine of \$22,000 against Pacific and a fine of \$1,000 against WorldCom.

(Comr Wood - ALJ Duda)

**Outcome Held (12/5/02, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-9  
1108****A00-06-023 - Southern California Edison Company (SCE).**

Application regarding Year Six (1999-2000) under its experimental gas cost incentive mechanism and related gas supply matters. SCE seeks modification of D02-06-023 to alter the text of the decision and to eliminate two findings of fact. SCE has not met its burden of showing that the changes are necessary or are justified by the record. The petition is denied. This proceeding is closed.

(Comr Lynch - ALJ Walker)

(Agenda 3098, Item CA-11 10/24/2002 (Lynch); Agenda 3099, Item CA-3 11/7/2002 (Lynch))

**Outcome Held (12/17/02, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-10  
1239                    C02-04-008 - William Stokes and Brian Jones vs. Pacific Gas and Electric Company (PG&E).**

William Stokes and Brian Jones filed this complaint against PG&E, alleging that PG&E is installing poles and overhead electric lines that will impact their views and present traffic problems for their neighborhood in Grass Valley, California. PG&E offered to install the lines underground if complainants and their neighbors would bear the cost, but complainants could not agree on an allocation of costs. Because the complaint alleges no violation of law, and because the overhead lines are being installed pursuant to PG&E's tariffs, the complaint is dismissed. This proceeding is closed. (Comr Duque - ALJ Walker)

**Outcome   Signed**

[D02-11-053](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-11  
1240                    A01-07-004 - Pacific Gas and Electric Company.**

For a permit to construct the Atlantic-Del Mar Reinforcement Project pursuant to General Order 131-D. This decision changes the preliminary designation. Hearings are not needed.

(Comr Duque - ALJ Cooke)

**Outcome   Held (12/5/02, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-12  
1256                    R97-10-049 - Rulemaking on the Commission's own motion to set rules and to provide guidelines for the privatization and excess capacity as it relates to investor owned water companies.**

This decision alters a Conclusion of Law and an Ordering Paragraph of D00-07-018 to conform to discussion and record in proceeding. This proceeding is closed.

(Comr Duque - ALJ Bushey)

**Outcome   Held (12/17/02, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-13  
1263****A00-06-051 - San Diego Gas & Electric Company (SDG&E).**

For approval of evaluative criteria for SDG&E's Distribution Performance-Based Ratemaking Mechanism. This proceeding is dismissed without prejudice and the proceeding is closed.

(Comr Wood - ALJ Minkin)

**Outcome Signed**

[D02-11-054](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-14  
1264****R02-02-020 - Rulemaking on the Commission's own motion to establish an appropriate error rate for connections made by an automatic dialing device pursuant to Section 2875.5 of the Public Utilities Code.**

This interim decision extends from January 1, 2003, to April 1, 2003, the effective date for changes in the acceptable error rate and other rules applicable to calls generated by predictive dialing telephone equipment. This extension will give the Commission additional time to consider comments by the parties following an industry workshop conducted by Telecommunications Division.

(Comr Brown - ALJ Walker)

**Outcome Signed**

[D02-11-055](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-15  
1270****Res SU-53 - Santa Clara Valley Transportation Authority (VTA).**

This resolution authorizes VTA a variance from General Order 95 (G.O. 95), Rule 37, Table 1, Case 3-C at West San Carlos Street near the West San Carlos overpass in San Jose and a variance from G.O. 95, Rule 74.4-E under the overpass. Under this resolution, VTA is permitted to lower the overhead trolley conductors to 14.34 ft. high at West San Carlos Street near the West San Carlos overpass and to 13.85 ft. high under the overpass.

**Outcome Approved**

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-16  
1271****Res SU-54 - Santa Clara Valley Transportation Authority (VTA).**

This resolution authorizes VTA a variance from General Order 95 (GO-95), Rule 37, Table 1, Case 2-C and Rule 74.4-E at the east entrance to the Diridon Tunnel. Under this variance, VTA is permitted to lower the overhead trolley conductor to a height of 13.5 feet at an area immediately inside the east entrance to the Diridon Tunnel.

**Outcome Approved**

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-17  
1276****A02-06-051 - Pacific Gas and Electric Company (PG&E).**

This decision denies the application of PG&E seeking to make permanent two Commission-approved pilot programs which allow a certain number of customers to own their own gas meters and gas meter add-on devices. The pilot programs have served a useful purpose as information gathering tools, but have failed to garner any meaningful customer interest or participation. Accordingly, the pilot programs should expire on December 31, 2002, as currently scheduled. This proceeding is closed.

(Comr Peevey - ALJ Carew)

**Outcome Signed**

[D02-11-056](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-18  
1280****A93-03-001 - Coast Shuttle, Inc., and Abader Inc.**

For the transfer of passenger stage authority pursuant to Section 851 through 854 of Public Utilities Code. This application is dismissed without prejudice. This proceeding is closed.

(Comr Duque - ALJ Henderson)

**Outcome Signed**

[D02-11-057](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-19  
1281****A96-06-033 - Southern California Edison Company (SCE).**

For a permit to construct electrical facilities with voltages between 50 kV and 200 kV. Because of the litigation between the parties that impacts this application, the Commission cannot proceed to a decision on the merits. Rather than letting the application remain open any longer, the Commission dismisses without prejudice to future refiling once the parties have resolved the litigation underlying this project. This proceeding is closed.

(Comr Brown - ALJ Cooke)

**Outcome Signed**

[D02-11-058](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-20  
1282****A97-05-022 - San Diego Gas & Electric Company (SDG&E).**

For authority to reduce rates effective January 1, 1998; authority to sell or assign transition property to one or more financing entities; authority to service rate reduction bonds on behalf of financing entities; authority to establish charges sufficient to recover fixed transition amounts; and such further authority necessary for SDG&E to carry out the transactions described in this application. This decision closes A97-05-022 because all pending issues raised in SDG&E's petition to modify D97-09-057 were considered in D00-06-034. This proceeding is closed.

(Comr Duque - ALJ Minkin)

**Outcome Signed**

[D02-11-059](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-21  
1295****Res M-4807**

This resolution adopts level of Public Utilities Commission Utilities Reimbursement Account Fees for fiscal year 2002-03.

**Outcome Held (12/5/02, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



- CA-22**  
**1311**      **Res M-4805**  
This resolution adopts level of Public Utilities Commission Transportation Rate Fund Fees for fiscal year 2002-03.  
**Outcome   Approved**  
Yes: (Duque, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (Brown)
- CA-23**  
**1312**      **Res M-4806**  
This resolution adopts level of Public Utilities Commission Transportation Reimbursement Account Fees for fiscal year 2002-03.  
**Outcome   Approved**  
Yes: (Duque, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (Brown)
- CA-24**  
**1314**      **Res SX-51 - Los Angeles to Pasadena Metro Blue Line Construction Authority (PBL).**  
This resolution authorizes the PBL to modify the plans they had submitted with A00-11-016 and approved by D02-05-047 in regards to placement of fiber optic trains signs and lunar bar indicators for the street-running section of the Pasadena Gold Line along Marmion Way in City of Los Angeles, Los Angeles County.  
(Exam Clark)  
**Outcome   Approved**  
Yes: (Duque, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (Brown)
- CA-25**  
**1315**      **Res SX-52 - North San Diego County Transit District (NSDTD).**  
This resolution grants an exemption from General Order 26-D/118 requirements for NSDTD to allow construction of four switch stands at less than minimum clearance and to provide walkways behind the switches at less than minimum dimensions. This exemption will permit installation of electric locks and switches at maximum distances from San Diego Northern Railroad's 90 mph Main Line 2 and will result in a safer work environment for trainmen at these locations than possible with alternative configurations that would technically comply with the General Orders.  
(Exam Clark)  
**Outcome   Approved**  
Yes: (Duque, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (Brown)

**CA-26  
1317****(ECP) C02-04-045 - James Byrnes vs. Pacific Bell Telephone Company (Pacific Bell).**

Complainant seeks to have his local toll bill of \$585 changed to billing for local calls. Held: Relief granted. Defendant's policy of making it difficult to determine whether a call is local or local toll is unreasonable. This proceeding is closed.

(Comr Duque - ALJ Barnett)

**Outcome Signed**

[D02-11-060](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-27  
1319****(ECP) C02-08-001 - Julio and Carole Dominguez (Complainants) vs. Pacific Gas and Electric Company (PG&E).**

This decision denies the Complainants request that PG&E cover the cost of relocating their gas meter. However, the request should be treated as an application for new service rather than a relocation of an existing service, so that Complainants can take advantage of line extension allowances to reduce their cost. This proceeding is closed.

(Comr Brown - ALJ Patrick)

**Outcome Signed**

[D02-11-061](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-28  
1320****A99-12-025 - Valencia Water Company (Valencia).**

Application of Valencia seeking approval of its updated Water Management Program as ordered in Commission Resolution W-4154 dated August 5, 1999. This decision awards Sierra Club \$29,565.96 in compensation for its contribution to D01-11-048 granting Valencia permission to expand its service area. This proceeding is closed.

(Comr Brown - ALJ Patrick)

**Outcome Held (12/17/02, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CA-29  
1321****A01-12-024 - Riverside County Transportation Commission (RCTC).**

For authority to construct a pedestrian overpass at railroad milepost 24.0 and a pedestrian emergency grade crossing at railroad milepost 24.08 of the BNSF Railroad Co. San Bernardino Subdivision main line as part of the construction of a new station in the City of Corona, County of Riverside. This decision grants request of authority to use the pedestrian emergency grade crossing during the period of time for construction of pedestrian overpass. Such use is required for construction of the pedestrian overpass. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

[D02-11-062](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-30  
1322****A01-08-016 - City of Placentia (Applicant).**

For approval of the installation of quad gates with pre signals and other crossing enhancements within Kellogg Drive, CPUC Crossing No. 2B-39.20 and Placentia Avenue, CPUC Crossing No. 2B-43.6, a distance of 4.4 miles. This decision grants the request of the Applicant to upgrade eight highway-rail at-grade crossings on Burlington Northern Santa Fe Railway Company's San Bernardino Subdivision, commonly known as Placentia Corridor, in cities of Anaheim, Placentia, and unincorporated areas of County of Orange. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

[D02-11-063](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-31  
1324****Res T-16704 - Pacific Bell Telephone Company (Pac Bell).**

This resolution approves an Interconnection Agreement between Pac Bell and Accutel of Texas, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 23221 filed September 5, 2002).

**Outcome Approved**

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-32  
1325****Res T-16706 - Pacific Bell Telephone Company (Pac Bell).**

This resolution approves an Interconnection Agreement between Pac Bell and Competitive Communications, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 23225 filed September 9, 2002).

**Outcome Approved**

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-33  
1326****Res W-4363 - Watertek, Inc., Indian Springs District (ISD).**

This resolution grants ISD a general rate increase producing additional annual revenue of \$34,930.00 or 50.1% in 2002.

**Outcome Approved**

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-34  
1327****A02-08-012 - Preferred Carrier Services, Inc. (Applicant).**

This decision grants the Applicant a certificate of public convenience and necessity to offer limited facilities-based and resold CLEC services. This proceeding is closed.

(Comr Brown - ALJ Bemederfer)

**Outcome Signed**

[D02-11-064](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-35  
1328**

**A02-06-033 - Del Oro Water Company (Del Oro).**

For authority to borrow approximately \$250,000.00 (and to issue evidence of indebtedness in connection therewith) in order to pay the costs of determining compliance with the California Environmental Quality Act of a proposed capital improvement project and for authority to recover all such costs by applying monthly surcharges to customers in its Lime Saddle, Paradise Pines and Magalia Districts in Butte County, California. This decision amends Ordering Paragraph 5 of D02-09-036 to allow Del Oro to enter into a loan agreement with a lender conditioned upon the Commissions's authorization of a surcharge. This proceeding is closed.

(Exam Jackson)

**Outcome Signed**

[D02-11-065](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-36  
1333**

**C92-10-013 - Castle and King Rock and Ready Mix Inc. vs. Pacific Bell and AT&T.**

This decision dismisses upon complainant's request. Complaint has been inactive for several years. This proceeding is closed.

(Comr Brown - ALJ Weismehl)

**Outcome Signed**

[D02-11-066](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-37  
1341**

**A02-08-016 - DMR Communications, Inc. (Applicant).**

For a Certificate of Public Convenience and Necessity in order to provide competitive Local Exchange, Exchange Access and Non-Dominant Interexchange Services. Granted. This proceeding is closed.

(Comr Peevey - ALJ Bemserderfer)

**Outcome Signed**

[D02-11-067](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-38  
1351****A02-08-022 - The City and County of San Francisco (CCSF).**

This proceeding grants the request of CCSF to construct 13 at-grade crossings along 4th and 3rd Streets, in the City and County of San Francisco. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

D02-11-068

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-39  
1359****A01-06-029 - Wild Goose Storage, Inc. (Wild Goose).**

For authority to amend its certificate of public convenience and necessity to expand and construct facilities for gas storage operation. This decision grants The Utility Reform Network \$13,634.96 for its substantial contribution to D02-07-036.

(Comr Lynch - ALJ Vieth)

**Outcome Signed**

[D02-11-069](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-40  
1360****I99-07-003 - Investigation on the Commission's own motion to consider the costs and benefits of various promising revisions to the regulatory and market structure governing California's natural gas industry and to report to the California legislature on the Commission's findings.**

This decision awards \$118,466.48 to The Utility Reform Network and \$11,514.85 to Aglet Consumer Alliance for their contributions to D01-12-018, in which the Commission adopted regulatory and market structure reforms for natural gas systems in southern California. This proceeding is closed.

(Comr Wood - ALJ Wong)

**Outcome Signed**

[D02-11-070](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-41  
1247****I01-04-027 - Investigation on the Commission's own motion into the performance obligations of qualifying facilities pursuant to contracts with California Public Utilities.**

This decision finds that the Commission no longer needs to track or identify the performance obligation of qualifying facilities. Therefore, this investigation is terminated.

(Comr Wood - ALJ Barnett)

**Outcome Signed**

[D02-11-071](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**CA-43  
(Rev.)  
1091****A97-12-020 - Pacific Gas and Electric Company (PG&E).**

For authority, among other things, to increase rates and charges for electric and gas service effective on January 1, 1999. I97-11-026, A94-12-005, I95-02-015 - Related matters. In a petition for modification of D00-02-046, the Office of Ratepayer Advocates (ORA) requests that the Commission eliminate ratepayer contributions for PG&E's Diablo Canyon Power Plant nuclear decommissioning trust funds. This decision finds that ORA's petition raises factual issues that are currently being addressed in A02-03-020, PG&E's 2002 Nuclear Decommissioning Cost Triennial Proceeding. To avoid unnecessary duplication of litigation, ORA's petition is dismissed on procedural grounds.

(Comr Wood - ALJ Wetzell)

(Agenda 3098, Item CA-6 10/24/2002 (Lynch))

11/21/2002 - This item appeared as (H-6) on the agenda distributed to the public.

**Outcome Signed**

[D02-11-072](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

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## Regular Agenda

### Utility and Transportation Orders *Orders Held Over*

**H-1                    A00-12-026 - Pacific Gas and Electric Company (PG&E).****38**

For approval of agreements allowing access to electric distribution facilities for the installation and maintenance of telecommunications equipment. This decision grants PG&E authority to convert nine of the 13 license agreements into lease agreements. The remaining four agreements will be addressed in a future decision after further review of the agreements' compliance with Section 851 and the California Environmental Quality Act.

(Comr Lynch - ALJ Kenney)

(Agenda 3080, Item CA-9 1/23/2002; Agenda 3087, Item CA-9 5/2/2002; Agenda 3088, Item CA-28 5/16/2002; Agenda 3090, Item H-1 6/27/2002; Agenda 3091, Item H-2 7/17/2002; Agenda 3093, Item H-1 8/22/2002 (Duque); Agenda 3095, Item H-1 9/19/2002 (Lynch); Agenda 3096, Item H-1 10/3/2002 (Wood); Agenda 3099, Item H-1 11/7/2002 (Lynch))

**Outcome   Held (12/5/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-1a                    ALTERNATE TO ITEM 38****854**

For approval of agreements allowing access to electric distribution facilities for the installation and maintenance of telecommunications equipment. The alternate decision concludes that the lease agreements are, in effect, licenses and therefore Public Utilities Code Section 851 is not applicable.

(Comr Duque)

(Agenda 3091, Item H-2a 7/17/2002; Agenda 3093, Item H-1a 8/22/2002 (Duque); Agenda 3095, Item H-1a 9/19/2002 (Lynch); Agenda 3096, Item H-1a 10/3/2002 (Wood); Agenda 3099, Item H-1a 11/7/2002 (Lynch))

**Outcome   Held (12/5/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



**H-2                    A98-02-017 - Pacific Bell (Pacific).****714**

For authority to categorize business inside wire repair, interexchange carrier directory assistance, operator assistance service and inmate call control service as Category III services. A98-04-048 - Related matters. This decision denies the Office of Ratepayer Advocates' petition for modification of D99-06-053 to recategorize Pacific's Residential Inside Wire Repair (RIWR) service option to Category II from Category III and to reset Pacific's RIWR wirepro ceiling rate to \$1.20 from \$2.99. These proceedings are closed.

(Comr Duque - ALJ Galvin)

(Agenda 3090, Item 7 6/27/2002; Agenda 3092, Item H-4 8/8/2002 (Wood); Agenda 3094, Item H-2 9/5/2002 (Wood); Agenda 3098, Item H-4 10/24/2002 (Lynch))

**Outcome Held (12/5/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-3                    R\_\_\_\_\_ - Order Instituting Rulemaking to implement the provisions of Public Utilities**  
**936                    Code § 761.3, enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative**  
**Session.**

This proceeding is opened to implement Pub. Util. Code §761.3, which confirms the authority of the Commission to address electric generation facility issues. The purpose of this proceeding is to develop rules to (1) enforce California Independent System Operator outage scheduling protocols and (2) implement and enforce the generator operation and maintenance standards that will be adopted by the California Electric Generation Facilities Standards Committee, established by the statute.

(Comr Wood)

(Agenda 3092, Item 6 8/8/2002 (Wood); Agenda 3093, Item H-14 8/22/2002 (Wood); Agenda 3095, Item H-8 9/19/2002 (Staff); Agenda 3098, Item H-5 10/24/2002 (Peevey); Agenda 3099, Item H-3 11/7/2002 (Brown))

**Outcome Signed**

[R 02-11-039](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**H-4  
967      I00-11-002 - Order Instituting Investigation into the adequacy of the Southern California Gas Company's (SoCalGas) and San Diego Gas & Electric Company's (SDG&E) gas transmission systems to serve the present and future gas requirements of SDG&E's core and noncore customers.**

This decision adopts new rules and procedures for SDG&E and SoCalGas to prevent future gas curtailments. This proceeding is closed.

(Comr Wood - ALJ Brown)

(Agenda 3095, Item 2 9/19/2002 (Staff); Agenda 3096, Item H-5 10/3/2002 (Lynch);

Agenda 3099, Item H-4 11/7/2002 (Lynch))

**Outcome   Signed**

[D02-11-073](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**H-5  
1057      R01-12-009 - Order Instituting Rulemaking on the Commission's own motion to evaluate existing practices and policies for processing offset rate increases and balancing accounts in the water industry to decide whether new processes are needed.**

In this interim decision applicable only to Class A water utilities, the Commission revises the existing procedures for recovery of under collections and over collections in balancing accounts existing prior to November 29, 2001.

(Comr Brown - ALJ Econome)

(Agenda 3099, Item 1 11/7/2002 (Lynch))

**Outcome   Held (12/5/02. Comr. Brown was necessarily absent.**

)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-5a  
1363      ALTERNATE TO ITEM 1057**

This alternate revises existing procedures to limit balancing account recovery when a utility is earning in excess of its authorized rate of return.

(Comr Lynch)

**Outcome   Held (12/5/02. Comr. Brown was necessarily absent.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**H-7  
1159                    R92-03-050 - Order Instituting Rulemaking on the Commission's own motion to consider the line extension rules of electric and gas utilities.**

This decision rejects free inspections for projects undertaken by third-party contractors at ratepayer expense; and rejects proposed accounting changes for line extension costs. This proceeding is closed.

(Comr Duque - ALJ Patrick)

(Agenda 3099, Item 2 11/7/2002 (Duque))

**Outcome   Held (12/17/02. Potential alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-8  
1166                    A01-09-024 - Southern California Gas Company (SoCalGas).**

A01-10-005 - Related matters. This decision grants SoCalGas' request for balancing account protection for noncore revenue risk effective January 1, 2003, until a decision issues in SoCalGas' Biennial Cost Allocation Proceeding.

(Comr Brown - ALJ Brown)

(Agenda 3099, Item CA-13 11/7/2002 (Duque))

**Outcome   Held (12/5/02. Further review and Comr. Brown was necessarily absent.**

)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-9  
1196                    A01-03-008 - Pacific Gas & Electric Company (PG&E).**

This decision denies the Application of PG&E for approval of an irrevocable lease for Metromedia Fiber Network Services, Inc. (MFNS) to use and install fiber optic cable on PG&E's facilities. The Commission finds that PG&E has failed to meet its burden of establishing that the approval it seeks will not cause environmental impacts that require analysis under California Environmental Quality Act. Moreover, PG&E's application is part of a piecemeal approach MFNS has taken to acquiring approval and environmental review of its San Francisco Bay Area fiber optic project. Finally, PG&E has failed to identify with specificity the facilities affected. This proceeding is closed.

(Comr Lynch - ALJ Thomas)

(Agenda 3099, Item 3 11/7/2002 (Staff))

**Outcome   Held (12/5/02.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-10  
1257      R \_\_\_\_\_ - Order Instituting Rulemaking into the service quality standards for all telecommunications carriers and revisions to General Order 133-B.**

This rulemaking is opened to determine the service quality measurements and standards that should apply to all telecommunications carriers and to make revisions to existing measurements and standards as appropriate.

(Agenda 3098, Item 9 10/24/2002 (Brown); Agenda 3099, Item H-12 11/7/2002 (Duque))

**Outcome Held (12/5/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**H-11 (Rev.)  
1261      I \_\_\_\_\_ - Order Instituting Investigation into the gas market activities of Southern California Gas Company, San Diego Gas & Electric Company, Southwest Gas Corporation, Pacific Gas and Electric Company, Wild Goose Storage, Inc. , and Southern California Edison and their impact on the gas price spikes experienced at the California border from March 2000 through May 2001.**

In this investigation, the Commission will examine the reasons for the increase in the price of natural gas at the California border from March 2000 through May 2001.

(Agenda 3098, Item 11 10/24/2002 (Lynch); Agenda 3099, Item H-14 11/7/2002 (Staff))

11/19/2002 - This revision was not shown on the Agenda mailed to the public.

**Outcome Signed as Modified (Changed pages 1, 2 & 12 to remove Wild Goose Storage, Inc. as a respondent.)**

[I 02-11-040](#)

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**H-12 (Rev.)  
1208      R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and D01-09-060.**

This decision grants the petition to modify D02-03-055 filed by City of Corona to clarify that utility distribution companies should continue to process and execute new agreements with qualified energy service providers.

(Comr Brown, Comr Wood - ALJ Pulsifer)

(Agenda 3099, Item CA-19 11/7/2002 (Lynch))

11/20/2002 - This item appeared as (CA-5) on the agenda distributed to the public.

**Outcome Held (Discussed and held to 12/17/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (Brown)

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**Orders**

- 1**                    **A01-03-036 - San Diego Gas & Electric Company (SDG&E).**  
**1272**                This decision denies without prejudice SDG&E's application for a CPCN to construct the proposed Valley-Rainbow Project. The Energy Division is directed to cease preparation of the Draft Environmental Impact Report/Draft Environmental Impact Statement for the proposed Valley-Rainbow Project. This proceeding is closed.  
(Comr Duque - ALJ Cooke)  
**Outcome Held (12/5/02.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 1a**                    **ALTERNATE TO ITEM 1272**  
**1274**                The alternate decision finds that there is a reliability need in the SDG&E territory in the five year horizon. It keeps the proceeding open to consider whether to grant a transmission CPCN and to explore other alternatives to the proposed project developed in the Draft Environmental Impact Report/Draft Environmental Impact Statement.  
(Comr Duque)  
**Outcome Held (12/5/02.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 2**                    **I01-03-021 - Investigation on the Commission's own motion and Order to Show Cause into the**  
**1323**                **operations, practices and conduct of Titan Telecommunications, Inc. (Titan), and Christopher**  
**Bucci, its President and owner.**  
This decision revokes Titan's certificate of public convenience and necessity (CPCN) and fines Titan \$17,500 after finding Titan violated Rule 1 by misleading the Commission in Titan's CPCN application. This decision further finds that Respondents are not liable for the restitution ordered against another company in D00-04-012, because the alter ego doctrine cannot be applied to respondents. The Consumer Protection and Safety Division's recommended changes to any future application for authority are adopted and the appeal is otherwise denied. Investigation 01-03-021 is closed.  
(Comr Brown - ALJ Grau)  
**Outcome Held (12/17/02. Possible alternate.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**3 (Rev.)  
1361**

**I \_\_\_\_\_ - Order Instituting Investigation on the Commission's own motion to review the compliance of San Diego Gas & Electric Company and Southern California Gas Company with the Commission's Affiliate Transaction Rules.**

This investigation will review the activities of Sempra Energy and its subsidiaries and affiliates in regards to their relationship and interactions with the regulated utilities San Diego Gas & Electric Company and Southern California Gas Company to evaluate the utilities' compliance with the Commission's affiliate rules.

11/20/2002 - This revision was not shown on the Agenda mailed to the public.

**Outcome Held (12/17/02. Further work.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Utilities Resolutions and Written Reports****Energy Matters****E-1                    Res G-3339 - Pacific Gas & Electric Company (PG&E).**

**1152**                    PG&E seeks to recover in core rates the costs related to the utility's subscription to El Paso Natural Gas Company pipeline capacity, made in compliance with R02-06-041, and existing pipeline capacity held by PG&E on Transwestern Pipeline. (Advice Letter (AL) 2401-G filed July 31, 2002, and AL 2405-G filed August 29, 2002.)

(Agenda 3098, Item E-4 10/24/2002 (Duque); Agenda 3099, Item E-4 11/7/2002 (Lynch))

**Outcome   Held (12/5/02. Further discussion.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**E-1a                    ALTERNATE TO ITEM 1152**

**1260**                    Pacific Gas and Electric Company (PG&E) seeks to recover in rates assessed core customers costs related to the subscription of turned back El Paso Natural Gas Company (El Paso) pipeline capacity, made in compliance with R02-06-041, and existing pipeline capacity held on Transwestern Pipeline Company (Transwestern). PG&E is authorized to collect El Paso pipeline charges from all gas ratepayers, on an equal-cents-per-therm basis, pending the outcome of Phase II in Rulemaking R02-06-041. PG&E must continue to collect only the currently authorized portion of Transwestern costs.

(Comr Duque)

(Agenda 3098, Item E-4a 10/24/2002 (Duque); Agenda 3099, Item E-4a 11/7/2002 (Lynch))

**Outcome   Held (12/5/02. Further discussion.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**E-2  
1192      Res G-3337 - Southern California Gas Company (SoCalGas), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (Edison).**

This resolution approves the requests of SoCalGas, PG&E, SDG&E, and Edison for authority to revise the tax factor applied to Contributions in Aid of Construction to reflect a recent change in the Internal Revenue Code, except for the requested effective date. The effective date of the revised tax factor shall be September 11, 2002. (SoCalGas Advice Letter 3154 filed May 22, 2002, PG&E Advice Letter 2387-G/2243-E filed May 22, 2002, SDG&E Advice Letter 1412-E/1315-G filed May 22, 2002, and Edison Advice Letter 1624-E filed May 22, 2002.)

(Agenda 3099, Item E-5 11/7/2002 (Staff))

**Outcome    Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**E-3  
1278      Res E-3792 - Southern California Gas Company, Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E).**

Edison, PG&E, and SDG&E are directed pursuant to Public Utilities Code Section 399.8 to collect monies from customers to fund investments in energy efficiency, renewable energy, and research, development and demonstration projects as specified herein.

(Exam Clanon)

**Outcome    Held (12/5/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**E-4  
1332      Res E-3796 - Pacific Gas and Electric Company (PG&E).**

This resolution addresses PG&E's Advice Letter 2293-E submitted in compliance with Ordering Paragraphs 3 and 4 of D02-08-071 for reasonableness review of the utility's transitional procurement procedures and contracts not exceeding five years in term.

(By Advice Letter 2293-E filed October 22, 2002)

**Outcome    Approved**

Yes: (Duque, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)



**E-5 (Rev.)      Res E-3795 - Southern California Edison Company (Edison).****1356**

This resolution approves Edison's request to amend its qualified and non-qualified Nuclear Decommissioning Trust Agreements to reflect the appointment of Mellon Bank, N.A. as the Trustee and to revise the Trustee Fee Schedule. (Advice Letter 1648-E filed September 6, 2002).

11/20/2002 - This item appeared as (E-5) on the agenda distributed to the public.

11/20/2002 - Moved to item (CA-42) on the agenda.

11/20/2002 - This item appeared as (CA-42) on the agenda distributed to the public.

**Outcome   Held (12/5/02.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**Commissioner's Reports****CR-1  
1116****Commissioners' Reports.**

Miscellaneous Commissioners' reports.

**Outcome Withdrawn (No report.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CR-2  
1309****President Lynch Report**

Institution of investigation regarding the Commission's enforcement regarding misuse of state government property through use of inappropriate material and comparing the Commission's enforcement and standards to those of the Department of Justice and the Office of the Governor. (Agenda 3099, Item CR-2 11/7/2002 (Staff))

**Outcome Held (12/5/02.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**CR-3  
1364****Commissioner Wood Report**

Report regarding Ex Parte Communications restrictions on A00-10-045.

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Management Reports and Resolutions****M-1 Management Reports****1215** Miscellaneous Management reports.**Outcome Item Discussed**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (Brown)

**M-2 General Counsel's Report****1218** Consideration of Authority given (and to be given) to the General Counsel with respect to the California Department of Water Resources bond transaction, including, but not limited to, matters covered by the Summary of Material Terms.**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal Items

#### Orders Held Over

#### HEX-1 1144

#### **C88-03-016 - Conference with Legal Counsel - Application for Rehearing.**

Order disposing of application for rehearing of D01-06-034 filed by Napa Valley Wine Train, Inc. (Wine Train). D01-06-034 grants, in part, the City of St. Helena's petition for modification of prior decisions concerning the Wine Train. D01-06-034 concludes that the Wine Train's passenger excursion service does not constitute regulated transportation and that, in providing such service, the Wine Train is not functioning as a public utility.

(Agenda 3098, Item EX-5 10/24/2002 (Peevey); Agenda 3099, Item HEX-3 11/7/2002 (Lynch))

#### **Outcome Held (12/5/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Orders****EX-5  
1347****A00-11-038 - Conference with Legal Counsel - Application for Rehearing.**

A00-11-056, A00-10-028 - Related matters. Disposition of Application for Rehearing of D02-06-070, as modified by D02-07-007, filed by Southern California Edison Company and Pacific Gas and Electric Company.

**Outcome Held (12/17/02. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**EX-6  
1352****A00-11-038 - Conference with Legal Counsel – Application for Rehearing.**

A00-11-056, A00-10-028 - Related matters. Disposition of Applications for Rehearing of D02-10-063 filed by Pacific Gas & Electric Company, The Utility Reform Network, and Southern California Edison Company. D02-10-063 adopted a methodology for setting charges to recover bond-related costs incurred by the Department of Water Resources.

**Outcome Signed as Modified**

D02-11-074

Yes: (Duque, Lynch, Wood)

No: (Peevey)

Abstain: (none)

Absent: (Brown)